

REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, the claims have been amended for clarity.

Applicant believes that the above changes answer the Examiner's 35 U.S.C. 112, paragraph 2, rejection of claim 19, and respectfully requests withdrawal thereof.

The Examiner has rejected claim 16 under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Applicant believes that the Examiner is mistaken. In particular, in the Office Action mailed September 18, 2007, with respect to claim 16, the Examiner stated "Regarding claim 16 the claimed invention is directed to non-statutory subject matter. The language "a computer program stored on a record carrier" renders the claim non -statutory. The examiner suggests changing the claim to read, "A computer readable medium encoded with a computer program " in order to circumvent the rejection." In response thereto, Applicant had amended claim 16 accordingly.

Now, the Examiner states "however the support for this limitation in the specification on page 3, fourth paragraph states, in part, "the above objects is [sic] solved by a computer program stored on a record carrier or made available for download ". The vague reference to a 'record carrier' renders the claim non-statutory, since a 'record carrier' could be construed as a carrier signal or carrier wave, which are currently defined as non-statutory subject matter."

Applicant submits that it is common practice to include in the specification various embodiments of the invention, some of which may not be the subject matter for claims. In particular, one of these non-claimable embodiments may be the "best mode". There can be no doubt that a computer-readable medium is a form of a record carrier. Hence, the use of the terminology "computer-readable medium" is indeed included in the disclosure of the invention. As deemed by the CAFC in *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994), as noted in MPEP § 2106.1, "When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized." It is unknown to Applicant how the Examiner can now ignore the teachings of the CAFC and declare a claim non-statutory merely because the description (not the claim) may additionally include such "non-statutory subject matter".

In view of the above, Applicant believes that claim 16 is indeed statutory under 35 U.S.C. 101.

The Examiner has rejected claims 1, 3, 4, 7-11, 14-16 and 18-22 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,969,211 to Raymond. The Examiner has further rejected claims 2, 6, 12 and 13 under 35 U.S.C. 103(a) as being unpatentable over Raymond.

The Raymond patent discloses a transceiver interference cancellation system having a first and at least a second receiving branch, each including an antenna.

As noted in MPEP § 2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

The object of the subject invention, as indicated in claim 1 (as well as independent claims 14, 16 and 18) is to provide a desired radio signal without distortion. Claim 1 includes the limitation "fourth means for combining the fourth signal and the fifth signal to obtain an output signal, said output signal forming the desired radio signal".

The Examiner has indicated that this limitation is met by Raymond and indicates "(Figure 1, Item 6, output leading to weighting circuit 8)".

Applicant believes that the Examiner is mistaken. In particular, the signal from item 6 leading to the weighting circuit

8 is a control signal, i.e., a measure of the correlation between the signals applied thereto. However, such a control signal is not the desired radio signal. In the subject invention, on the other hand, the output signal from the fourth means, i.e., the adder 40 as shown in Fig. 1, is $r(kT)$, the desired radio signal.

In view of the above, Applicant believes that the subject invention, as claimed, is neither anticipated nor rendered obvious by Raymond, and as such, is patentable thereover.

Applicant believes that this application, containing claims 1-4, 6-16 and 18-22, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by /Edward W. Goodman/
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611